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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,863	12/16/2003	Robert Emmett Atkinson	AEWI-1	5348
34485	7590	11/15/2005		
ROBERT E. ATKINSON, PC 2679 RIVIERA DRIVE SOUTH WHITE BEAR LAKE, MN 55110				
EXAMINER BRADFORD, RODERICK D				
ART UNIT 3762				
PAPER NUMBER				

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/736,863

Applicant(s)

ATKINSON ET AL.

Examiner

Roderick Bradford

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 29-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 09/03/04, 10/04/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 29, 34, 35 and 40 are rejected under 35 U.S.C. 102(e) as being anticipated by Keane et al. U.S. Patent No. 6,632,223.

Referring to claims 29, 34, 35 and 40 Keane discloses:

- an electrical lead having a proximal portion and a distal portion with a lumen extending there through (inherent)
- an intraluminal anchoring device including an anchor and an elongate tether, the tether detachably connected to the anchor and extending proximally from the anchor, the tether extending through the lumen of the lead with the anchor disposed distally of the lead, wherein the lead is longitudinally movable with respect to the anchoring device (col. 6, lines 25-41).
- wherein the anchor comprises a self-expanding structure (abstract).

3. Claims 29-31, 34-37, 40-43 and 46 are rejected under 35 U.S.C. 102(e) as being anticipated by Falkenberg Pub No. 2004/0116965.

Referring to claims 29, 31, 34, 35, 37, 40, 41 and 43 Falkenberg discloses:

- an electrical lead having a proximal portion and a distal portion with a lumen extending there through (inherent)
- an intraluminal anchoring device including an anchor and an elongate tether, the tether detachably connected to the anchor and extending proximally from the anchor, the tether extending through the lumen of the lead with the anchor disposed distally of the lead, wherein the lead is longitudinally movable with respect to the anchoring device (paragraph 0046).
- wherein the anchor comprises a self expanding structure (paragraph 0051)
- wherein the anchoring device including an anchor and an elongate non-electrically conductive tether (paragraph 0051).

Referring to claims 30, 36 and 42 further comprising a connector for limiting longitudinal movement between the lead and the anchoring device, wherein the connector is insertable into the lumen of the lead adjacent the tether (paragraph 0035).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 32, 33, 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keane et al. U.S. Patent No. 6,632,223.

Referring to claims 32, 33, 38 and 39 Keane discloses the claimed invention except for wherein the tether comprises a braid and wherein the tether comprises a polymeric braid. It would have been an obvious matter of design choice to one skilled in the art to modify the teachings of Keane with wherein the tether comprises a braid and wherein the tether comprises a polymeric braid, since applicant has not disclosed that wherein the tether comprises a braid and wherein the tether comprises a polymeric braid provides any criticality and/or unexpected results and it appears that invention would perform equally well with any tether, such as the tether as taught by Keane as a means to position the stent within the body.

7. Claims 32, 33, 38, 39, 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Falkenberg Pub No. 2004/0116965.

Referring to claims 32, 33, 38, 39, 44 and 45 Falkenberg discloses the claimed invention except for wherein the tether comprises a braid and wherein the tether comprises a polymeric braid. It would have been an obvious matter of design choice to one skilled in the art to modify the teachings of Falkenberg with wherein the tether comprises a braid and wherein the tether comprises a polymeric braid, since applicant has not disclosed that wherein the tether comprises a braid and wherein the tether comprises a polymeric braid provides any criticality and/or unexpected results and it appears that invention would perform equally well with any tether, such as the tether as taught by Falkenberg as a means to position the stent within the body.

### ***Conclusion***

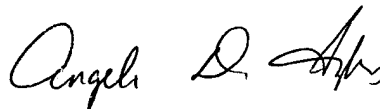
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roderick Bradford whose telephone number is (571) 272-4942. The examiner can normally be reached on Monday - Friday 9 a.m. - 6:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3762

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
R.B.



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